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UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

AGSAVER LLC,

Plaintiff,

v.

VALENT U.S.A. CORPORATION,

Defendant.

No. C 11-~~00264~~ JCS

**STIPULATION AND [PROPOSED]  
 ORDER EXTENDING TIME FOR THE  
 UNITED STATES TO INTERVENE  
 AND FILE BRIEF REGARDING  
 CONSTITUTIONAL CHALLENGE**

Hon. Joseph C. Spero

The parties, along with prospective intervenor the United States of America, stipulate to the following request made by counsel for the United States of America to obtain an additional 30 days in which to intervene to defend the constitutionality of 35 U.S.C. § 292 in this case. Federal Rule of Civil Procedure 5.1(c) gives the Court the power to grant this additional time as it states, in relevant part, “[u]nless the court sets a later time, the attorney general may intervene within 60 days after the notice is filed or after the court certifies the challenge, whichever is earlier.” The current deadline for moving to intervene is August 16, 2011, and counsel for the United States needs the requested additional time in order to obtain the necessary approval from the Solicitor General’s office to intervene in this action. Giving the United States until September 16, 2011 to intervene would also mean that the United States would file its brief intervening in the case and defending the constitutionality of the statute on the same date that Plaintiff files its opposition to Defendant’s motion to dismiss. Counsel for Plaintiff and Defendant have agreed that this limited extension of time is acceptable.

1 The parties and the United States have also agreed, subject to the approval of the Court,  
2 that Defendant Valent U.S.A. Corporation shall have until October 7, 2011 to file a single brief  
3 responding to Plaintiff's opposition to Defendant's motion to dismiss and the brief anticipated to  
4 be filed by the United States on September 16, 2011.

5 Dated: August 11, 2011

Respectfully submitted,

6 MELINDA HAAG

7 United States Attorney

8 \_\_\_\_\_/s/ Michael T. Pyle\_\_\_\_\_  
9 MICHAEL T. PYLE  
10 Assistant United States Attorney  
Attorney for United States of America

11 Dated: August 11, 2011

FARELLA BRAUN + MARTEL LLP

12 \_\_\_\_\_/s/ James W. Morando\_\_\_\_\_  
13 Counsel for Plaintiff Agsaver LLC.

14 Dated: August 11, 2011

GORDON & REES LLP

15 \_\_\_\_\_/s/ Fletcher C. Alford\_\_\_\_\_  
16 Counsel for Defendant Valent U.S.A. Corporation.

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18 **PURSUANT TO STIPULATION, IT IS SO ORDERED:**

19 The Court, having considered the stipulation of the parties and the United States, orders  
20 that the United States shall have until September 16, 2011 to intervene and file a substantive  
21 brief in support of its defense of the constitutionality of 35 U.S.C. § 292 in this case. Defendant  
22 Valent U.S.A. Corporation shall have until October 7, 2011 to file a a single brief responding to  
23 Plaintiff's opposition to the motion to dismiss and the brief to be filed by the United States.

24 DATED: 8/22/11 \_\_\_\_\_

25 HONORABLE JOSEPH C. SPERO  
26 U.S. MAGISTRATE

